



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2002-27**

September 6, 2002

Mr. Nelson E. Smith, Sr.
PO Box 99
Nottingham, NH 03290-0099

RE: DES Wetlands File #2002-01650, 91 McCrillis Rd., Nottingham, New Hampshire

Dear Mr. Smith:

On August 15, 2002 and again on August 21, 2002, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Nottingham Tax Map 25 as Lot 0016 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Administrative Rules Wt 100-700.

During these inspections the following deficiencies were documented:

1. Portions of a large stockpile of fill located behind a parked travel trailer and shed, and adjacent to the driveway, are encroaching on a forested wetland area. Approximately 3000 square feet of this stockpile is fill in a forested wetland.
2. At another location on the same property, approximately 1320 square feet of forested wetland had been filled for a woods road crossing to provide access to the sewage disposal system.

On August 15, 2002, during the site inspection, you noted that the woods road had been in existence for about 17 years and that you had been adding fill over the course of 17 years. The DES Wetlands Bureau's jurisdiction for non-tidal wetlands began in 1969. However, if you submit evidence (such as dated photographs, affidavits from previous owners or abutters) demonstrating that the woods road was in existence since 1991, the Wetlands Bureau will take no action on this fill.

In response, you are requested to take the following actions:

1. Within 10 days, retain a qualified environmental consultant to develop a restoration plan for the impacted areas.
2. Within 15 days, submit documentation to DES that a qualified environmental consultant has been retained.
3. Within 45 days submit to DES a restoration plan which includes the following:
 - a) A plan with dimensions, drawn to scale, indicating:
 - (1) Delineation of the wetlands prior to dredging and filling; and
 - (2) Delineation of the existing conditions showing the extent of the filling
 - b) A plan for re-establishing the wetland to its original footprint;
 - c) A proposed means for erosion and sediment controls;
 - d) A proposed construction sequence listing equipment and methods for accomplishing restoration no later than November 3, 2002;
 - e) A proposed planting plan for the reestablishment of forest wetland vegetation;
 - f) A proposed monitoring plan, including at least one restoration progress assessment report to be filed with DES after a full growing season.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Arlene Allen, Compliance Specialist
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Arlene Allen at (603) 271-2147.

Sincerely,


COPY

Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL 7001 0360 0001 5816 032

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit
Mark Harbaugh, DES Enforcement Attorney ✓
Cheryl McGary, DES Waste Management
Charles Brown, Nottingham Town Administrator
Nottingham Conservation Commission
Nottingham Board of Selectmen
David Killoy, USACOE
Thomas Harlan, Booker and Granger